

is not part of it. It is taken in as a package arrangement.

I would say that the acceptance or rejection of the Missouri plan is one of the most difficult and frustrating and soul-searching decisions that I have had to make since I have been in this Convention. No doubt the plan has merit and it is for that reason that so many capable lawyers and capable judges have differed with each other. But where do we go for the answer?

While the plan has merit, it has certain built-in weaknesses. The plan results in a departure from history and a system wherein the judiciary becomes dependent upon the executive branch of the government, and it destroys the long-established doctrine of separation of the three powers of government into three independent departments. It destroys the independence of the judiciary and makes it dependent on the political, rather than the elective process. The removal of the judges from election by the people deprives them of the inherent, basic right implicit in the philosophy that the closer the government is to the people, the better the government. It constitutes another erosion of the principles of an elective system.

The plan perpetuates judges in power for the balance of their lives. They become ensconced within an impregnable wall wherein power feeds upon power and tends toward mediocrity in the autocratic regime of a judicial oligarchy. Politics is not removed from this plan as evidenced by those polled in Missouri. Forty-one to thirty-eight percent indicated that politics played a great part in the selection process. The only difference is that it goes on back in the chambers of the judges and it is not played out in the political arena where the people have a right to decide about the judiciary.

Missouri tried this system without success, and after twenty-five years it is still not an accepted principle over the entire State of Missouri. In a panel discussion one of the members who endorsed this plan using the language of a legislator from Missouri, stated, "those guys get on the bench and all hell can't move them off."

Now, I submit to you that if after twenty-five years you do not have a workable plan in Missouri, and according to the Governor of Missouri—and I quote him: "The present plan in Missouri known as the Missouri Plan is not yet the perfect solution"—

THE CHAIRMAN: Your time is up.

DELEGATE BLAIR: I would like to say one sentence.

THE CHAIRMAN: Proceed.

DELEGATE BLAIR: If we intend to put something in our constitution that is not of a perfect nature or near perfect, then I say we should not use it as a dumping ground for things that have been attempted legislatively unsuccessfully, or which have been taken before the bar association without success.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: I would like to yield three minutes to Delegate Gallagher.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman and delegates: If there is one area where this proposed reform will have a positive impact, it will be at the *nisi prius* level. I would urge that you accept it as proposed. This is not a question of trying to remove politics from the appointment of judges. What actually happens is that under the present system when a man gets appointed to be a judge he is subject to gross political pressures for the period of time that he must serve on the bench before he actually aspires to election.

This is a question of taking the political influence out of the judges' chambers. I would be the last one to deny that there is always some political consideration that goes into choosing judges. You cannot eliminate this as long as you have human beings.

I am fearful of the political impact and pressures on a judge once he has been selected by the governor. I have had the luxury of serving on both sides of this particular battle line. I have been chairman of two campaigns for two sitting judges in Baltimore City. I also participated in a campaign where the city judge was defeated, and I campaigned for the man who defeated him. I can tell you some of the real evils that exist in the set up today. When you require a member of the bench to deal with political bosses in order to be placed on a ballot you are jeopardizing the function of political life and you are jeopardizing the judiciary, to say the least. Raising funds is an important aspect that cannot be removed. When a judge solicits or accepts funds, we know that many times the large contributors are not contributors or donors; they are investors, and they are investing in future litigation, and litigation which is yet to be heard by